

# Court of Appeals, State of Michigan

## ORDER

People of MI v Oscar Montes

Docket No. 223539

LC No. 99-004118

Henry William Saad  
Presiding Judge

David H. Sawyer

Peter D. O'Connell  
Judges

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Upon review of the trial court's explanation on remand, the Court finds that the trial court sufficiently articulated adequate substantial and compelling reasons which justify its departure from the statutory sentencing guidelines under *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003). In support of its departure the trial court cited the victim's young age, defendant's attempt to kidnap both the victim and her sister, the fact that the abduction took place near the victim's home, in her own neighborhood, in broad daylight, the fact that the victim was abducted by force, "kicking and screaming" as she was driven away, and the psychological impact to the victim and her parents. The trial court's properly determined that these relevant factors were either unscored by the guidelines or given inadequate weight by the guidelines. Accordingly, defendant's sentence is AFFIRMED.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 28 2005  
Date

*Sandra Schultz Mengel*  
Chief Clerk